

grant of the patent." *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443, 1444 (Fed. Cir. 1992).

***Bajpai***

The Examiner rejected claims 25-34, 36-43 and 45-46 under 35 U.S.C. §102(b) as being anticipated by Bajpai (WO 97/15009).

Regarding claim 25, the Examiner argued that Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of: collecting machine data in a database associated with said machine (page 10, lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of database, where local diagnostic element 28 is interpreted as a machine); creating a document containing said machine data (page 10, lines 3-9 and page 11, lines 4-6, where the files and information are collected as a packet [i.e. document]); transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (FIGS. 1 and 6; page 10, lines 3-4); processing said document at said remote enterprise (page 11, lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; FIG. 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31); and proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (page 9, lines 24-25, page 10, lines 10-12, and page 11, lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50, via a telephone link): I) providing said customer with corrective action for said machine (page 11, lines 9-17); II) transmitting corrective action over said data network directly to said machine (page 1, lines 9-17); III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (page 11, line 18).

The Applicant respectfully disagrees with this assessment and notes that claim 25 includes the limitation:

"proceeding with one of the following while said remote enterprise is interacting telephonically with a customer:  
providing said customer with corrective action for said machine;  
transmitting corrective action over said data network directly to said machine;  
escalating said fault analysis to an advanced customer support unit within said remote enterprise."

Bajpai does not disclose: 1) proceeding with one of the following *while* the remote enterprise is interacting *telephonically* with a *customer*, or 2) escalating the fault analysis to an *advanced customer support unit*.

The Examiner's citations in Bajpai (pages 9, 10 and 11) all disclose communications *digitally* with the remote machine, without input from a user, not communication telephonically with a customer. This is shown, for example, in the Examiner's citation in Bajpai page 11, lines 12-14 as follows:

"Similarly if remote diagnostic element 50 requires a user to answer a question, it downloads the question to local diagnostic element 28 and awaits the answer."

The other citations in Bajpai are similar in that Bajpai utilizes a modem or a network for all communications. The Examiner has also cited reference item 10 (FIG. 1) as inherently a customer interacting telephonically, however, reference item 10 is a digital data processor connected to a modem 16, in order to communicate digitally, as disclosed on pages 4 and 5. Telephonic communications are communications wherein the parties are *talking* while utilizing a telephone. Bajpai does not disclose interacting with a customer telephonically at all.

The Applicant's claim 25 specifically claims a method of automating customer assistance *while* the remote enterprise (customer assistance or tech support) is interacting telephonically with the customer; i.e. the customer is talking with the remote enterprise at the *same time* that one of the three actions take place. Bajpai

does not disclose interacting telephonically with a customer at all; therefore, obviously cannot disclose interacting telephonically while proceeding with one of three actions.

Bajpai also does not disclose escalating the fault analysis to an advanced customer support unit. Bajpai discloses the remote diagnostic element program (50) passing control to an engineer if the program encounters a problem that it does not know (Bajpai page 11, lines 15-18). This is similar to the first level of customer support of the Applicant's claim 25, i.e. the remote enterprise.

The invention of the Applicant includes *two levels* of remote enterprise support. The first level interacts telephonically with the customer and if unable to solve the problem by i) providing the customer with corrective action or ii) transmitting corrective action directly to the machine, escalates the customer support to a *second level* support unit, defined in the specification and claim 25 as an "advanced customer support unit". Bajpai does not disclose this second level of customer support. Bajpai does not disclose the third choice of the remote support unit; the choice of escalating the fault analysis to an *advanced customer support* unit within the remote enterprise.

The Examiner has failed in the aforementioned *prima facie* anticipation test in regards to the Bajpai reference. Bajpai does not disclose proceeding with one of the three choices while the remote enterprise is interacting telephonically with a customer, or escalating the fault analysis to an advanced customer support unit, as in the Applicant's claim 25. Therefore, Bajpai does not disclose each and every limitation of the Applicant's claim 25. Based on the foregoing, the Applicant respectfully requests that the 35 U.S.C. §102(b) rejection of claim 25 based on the Bajpai reference be withdrawn.

Regarding Claim 26, the Examiner argued that Bajpai discloses said machine data is collected automatically by sensors or software associated with the machine (page 5, lines 3-6 and page 7, line 1 through page 8, line 6).

Regarding claim 27, the Examiner argued that Bajpai discloses said machine data is collected upon recognition of a malfunction by said sensors or software (page 5, lines 9-11).

Regarding claim 28, the Examiner argued that Bajpai discloses said machine data includes at least one of the group comprising: machine identity, machine location, machine usage history, error codes, customer identification (page 10, lines 5-9).

Regarding claim 29, the Examiner argued that Bajpai discloses said document is transmitted to said remote enterprise automatically by said machine (page 10, lines 3-16).

Regarding claim 30, the Examiner argued that Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (page 10, lines 3-12, where it is interpreted that the customer [user workstation 10] is communicating with the remote enterprise [workstation 12] via telephone link inherently in order to transmit the document [packet]).

Regarding claim 31, the Examiner argued that Bajpai discloses said remote enterprise processes said document prior to communicating with a customer associated with said machine (page 11, lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document).

Regarding claim 32, the Examiner argued that Bajpai discloses said machine data includes at least one of the group comprising: machine identity; machine

location; machine usage history; error codes; and customer identification (page 10, lines 5-9).

Regarding claim 33, the Examiner argued that Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (page 11, lines 5-9).

Regarding claim 34, the Examiner argued that Bajpai discloses interacting telephonically with a customer associated with said machine after said document is processed at said remote enterprise (page 10, lines 3-12 and page 11, lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document).

The Applicant respectfully disagrees with these assessments and notes that the argument presented above against the rejection of claim 25 applies equally against the rejections of claims 26-35, dependent upon claim 25. For example, Bajpai does not disclose telephonically interacting with a customer or an advanced customer support unit within the remote enterprise. Therefore, as argued above, Bajpai fails to disclose each and every limitation of the Applicant's claims 26-35.

Based on the foregoing, the Applicant respectfully request that the 35 U.S.C. §102(b) rejections of claims 26-35 based on the Bajpai reference be withdrawn.

Regarding claim 36, the Examiner argued that Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of: collecting machine data in a database associated with said machine (page 10, lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of a database, where local diagnostic element 28 is interpreted as a machine), wherein said machine data is collected automatically by sensors or software associated with the machine (page 5, lines 3-6 and page 7, line 1 through page 8, line 6; creating a document containing said machine data (page 10, lines 3-9 and page 11, lines 4-6, where the files and information are

collected as a packet [i.e., document]); transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (FIGS. 1 and 6; page 10, lines 3-4), wherein said machine data is transmitted automatically to said remote enterprise without user input (page 11, lines 4-6); processing said document at said remote enterprise (page 11, lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; FIG. 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31); and proceeding with one of the following while said remote enterprise is interaction telephonically with a customer (page 9, lines 24-25, page 10, lines 10-12, and page 11, lines 12-14, where the user, in association with user workstation 10, is interpreted as a customer interacting with remote enterprise 50 via a telephone link): I) providing said customer with corrective action for said machine (page 11, lines 9-17) II) transmitting corrective action over said data network directly to said machine (page 11, lines 9-17) III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (page 11, line 18).

Regarding claim 37, the Examiner argued that Bajpai discloses said machine data includes at least one of the group comprising: machine identity; machine location; machine usage history; error codes; and customer identification (page 10, lines 5-9).

Regarding claim 38, the Examiner argued that Bajpai discloses said document is transmitted to said remote enterprise concurrently with a customer initiating communication telephonically with said remote enterprise (page 10, lines 3-12, where it is interpreted that the customer [user workstation 1] is communicating with the remote enterprise [workstation 12] via a telephone link inherently in order to transmit the document [packet]).

Regarding claim 39, the Examiner argued that Bajpai discloses processing said document at said remote enterprise utilizing a remote database of corrective actions (Figs. 1 and 2; page 10, lines 3-27).

Regarding claim 40, the Examiner argued that Bajpai discloses said document is processed at said remote enterprise for fault analysis of said machine (page 11, lines 5-9).

Regarding claim 41, the Examiner argued that Bajpai discloses said remote enterprise processes said document prior to communication with a customer associated with said machine (page 11, lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document).

Regarding claim 42, the Examiner argued that Bajpai discloses interaction telephonically with a customer associated with said machine after said document is processed at said remote enterprise (page 10, lines 3-12 and page 11, lines 15-20, where the downloading/communicating of information by the remote enterprise via a telephonic link is done after processing of the document).

Regarding claim 43, the Examiner argued that Bajpai discloses requesting additional information from said machine by said remote enterprise over said data network (page 11, lines 10-14).

Regarding claim 45, the Examiner argued that Bajpai discloses a method of automating customer assistance associated with a machine, comprising the steps of: collecting machine data in a database associated with said machine (page 10, lines 3-9, where the files and information collected are interpreted as inherently being stored in some type of database, where local diagnostic element 28 is interpreted as a machine), wherein said machine data is collected automatically by sensors or software associated with the machine (page 5, lines 3-6 and page 7, line 1 through page 8, line 6); creating a document containing said machine data (page

10, lines 3-9, and page 11, lines 4-6, where the files and information are collected as a packet [i.e., document]); transmitting said document over a data network to a remote enterprise from said machine utilizing communication equipment associated with said machine (FIGS. 1 and 6; page 10, lines 3-4); processing said document at said remote enterprise (page 11, lines 4-14, where diagnostic element 50 is interpreted as a part of a remote enterprise; FIG. 1 illustrates a remote enterprise as the collection of remote diagnostic workstation 12, engineer's workstation 14, and engineer 31); and proceeding with one of the following while said remote enterprise is interacting telephonically with a customer (page 9, lines 24-25, page 10, lines 10-12, and page 11, lines 12-14, where the user in association with user workstation 10 is interpreted as a customer interacting with remote enterprise 50 via a telephone link): I) providing said customer with corrective action for said machine (page 11, lines 9-17); II) transmitting corrective action over said data network directly to said machine (page 11, lines 9-17); III) escalating said fault analysis to an advanced customer support unit within said remote enterprise (page 11, line 18).

Regarding claim 46, the Examiner argued that Bajpai discloses said machine data includes at least one of the group comprising; machine identity; machine location; machine usage history; error codes; customer identification (page 10, lines 5-9).

The Applicant respectfully disagrees with the above assessments regarding claim 36-46 and notes that the argument presented above against the rejection of claim 25 applies equally against the rejections of claims 36-46 as the independent claims 36 and 45 include the same limitations that are not disclosed in Bajpai as argued above. Bajpai does not disclose interacting telephonically with a customer nor does Bajpai disclose an advanced customer support unit.



Bajpai does not disclose each and every limitation of the Applicant's claims 36-46, as argued above. Based on the foregoing, the Applicant respectfully requests that the 35 U.S.C. §102(b) rejections of claims 36-46, based on the Bajpai reference, be withdrawn.

## **II. Claim Rejections - 35 USC § 103**

### ***Requirements for Prima Facie Obviousness***

The obligation of the examiner to go forward and produce reasoning and evidence in support of obviousness is clearly defined at M.P.E.P. §2142:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

M.P.E.P. §2143 sets out the three basic criteria that a patent examiner must satisfy to establish a *prima facie* case of obviousness:

1. some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings;
2. a reasonable expectation of success; and
3. the teaching or suggestion of all the claim limitations by the prior art reference (or references when combined).

It follows that in the absence of such a *prima facie* showing of obviousness by the Examiner (assuming there are no objections or other grounds for rejection), an applicant is entitled to grant of a patent. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443 (Fed. Cir. 1992). Thus, in order to support an obviousness rejection, the Examiner is obliged to produce evidence compelling a conclusion that each of the three aforementioned basic criteria has been met.

***Bajpai in view of Pfeiffer et al.***

The Examiner rejected claims 35, 44, 47 and 48 under 35 U.S.C. §103(a) as being unpatentable over Bajpai in view of Pfeiffer et al. (U.S. Pub. No. 2004/0078722), hereinafter referred to as "Pfeiffer".

Regarding claims 35, 44 and 47 the Examiner argued that Bajpai discloses a document for transmission over a network. However, the Examiner admitted that Bajpai fails to teach formatting the document in an object description language. The Examiner stated that Pfeiffer teaches formatting troubleshooting information in XML before sending to a support enterprise (Abstract, paragraph [0007]).

The Examiner stated that it would have been obvious to a person skilled in the art at the time the invention was made to have included the XML formatting as taught by Pfeiffer in the invention of Bajpai. This would have been obvious because XML allows for a more comprehensive means of trouble shooting in a computer system (paragraphs [0005]-[0006]).

Regarding claim 48, the Examiner argued that Bajpai discloses said remote enterprise processes said document prior to communication with customer associated with said machine (page 11, lines 15-20, where the downloading/communicating of information by the remote enterprise is done after processing of the document).

The Applicant respectfully disagrees with this assessment and notes that the argument presented above against the rejection of claim 25 applies equally against the rejections of claims 35, 44 and 47 as the independent claims 25, 36 and 45 include the same limitations that are not disclosed in Bajpai as argued above. Bajpai does not disclose interacting telephonically with a customer nor does Bajpai disclose an advanced customer support unit. Pfeiffer also does not disclose interacting telephonically with a customer or an advanced customer support unit.

The Examiner has combined the Bajpai and Pfeiffer references to argue that the references disclose the troubleshooting information formatted in an object description language; however, the Examiner has not shown a reasonable expectation of success of combining the references, as required by MPEP §2142.

The Examiner has failed in the aforementioned *prima facie* obviousness test in regards to the Bajpai/Pfeiffer references. The Examiner has not shown that the references, singularly or in combination, disclose each and every limitation of the Applicant's claims 35, 44 and 47. The Examiner has not shown a reasonable expectation of success of combining the references. Based on the foregoing, the Applicant respectfully requests that the 35 U.S.C. §103(a) rejections of claims 35, 44 and 47, based on the Bajpai and Pfeiffer references, be withdrawn.

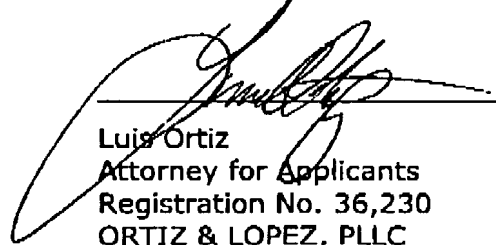
### **III. Conclusion**

In view of the foregoing discussion, the Applicant has responded to each and every rejection of the Official Action. The Applicant has clarified the structural distinctions of the present invention. Applicant respectfully requests withdrawal of the objections and rejections under 35 U.S.C. §102, 35 U.S.C. §103 based on the preceding remarks. Reconsideration and allowance of Applicant's application is also respectfully solicited. A Request for Continued Examination (RCE) under 37 CFR 1.114 is also submitted herewith, including the RCE fee of \$790.

Should there be any outstanding matters that need to be resolved, the Examiner is respectfully requested to contact the undersigned representative to conduct an interview in an effort to expedite prosecution in connection with the present application.

Respectfully submitted,

Dated: April 25, 2007

A handwritten signature in black ink, appearing to read "Luis Ortiz", is written over a horizontal line.

Luis Ortiz  
Attorney for Applicants  
Registration No. 36,230  
ORTIZ & LOPEZ, PLLC  
P.O. Box 4484  
Albuquerque, NM 87196-4484